

AMENDED IN SENATE APRIL 10, 2014

**SENATE BILL**

**No. 1121**

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**Introduced by Senator De León**

February 19, 2014

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~~An act relating to the California Green Bank.~~ *An act to add and repeal Part 11.5 (commencing with Section 15880) to Division 3 of Title 2 of the Government Code, and to amend Section 39712 of the Health and Safety Code, relating to state government, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1121, as amended, De León. The California Green Bank.

*(1) The Bergeson-Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, governed by a board of directors, to make loans, issue bonds, and provide other assistance for various types of economic development projects, among other things. The activities of the bank under these provisions are funded from the California Infrastructure and Economic Development Bank Fund, which is continuously appropriated for these purposes.*

*This bill would establish until January 1, 2036, the California Green Bank to, among other things, serve as a provider of bond guarantees, loans, loan guarantees, the warehousing of loans, securitization, insurance, portfolio insurance, credit enhancements, and other forms of financing support and risk management for clean energy projects and innovative energy technology projects, as those terms are defined. The bank would be governed by a board of directors composed of 11 members appointed by the Governor, the Legislature, and various heads of executive branch entities, as specified, to serve terms of office to be*

*determined by the board. The act would authorize the board to select a chief executive officer to manage and conduct the business of the bank, at the direction of the board, and to select an executive vice president and 2 divisional vice presidents and hire staff. The act would require these employees to be compensated at prevailing rates of compensation for similar positions in private industry. The act would authorize the bank to employ or contract with banks, credit agencies, and attorneys, at customary commercial rates to carry out the activities and mission of the bank, including, but not limited to, administrative and operative functions.*

*The act would specifically authorize the bank to issue bonds that may have a maturity of not more than 50 years and are exempt from state taxation. The act would limit the repayment of bonds to the extent funds are available to the bank and would provide that repayment is not backed by the full faith and credit of the state. The act would require the bank to establish a program to provide loans, loan guarantees, securitization, insurance, portfolio insurance, and other forms of financing support, as the bank determines is appropriate for qualified clean energy projects. The act would require the bank to charge fees for bond guarantees, and would authorize the bank to facilitate financing in tax equity markets and take a nonvoting equity or membership interest in innovative energy technology projects or developers. The act also would authorize the bank to take certain actions if a sponsor or developer of an innovative energy technology projects defaults on its financing support.*

*The act would establish the California Green Bank Fund, to receive local, state, federal, and private moneys, as a continuously appropriated fund for the purpose of implementing the act.*

*The act annually requires the bank to submit a report to the Governor and the Legislature on its activities and to be independently audited.*

*(2) The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and, among other things, authorizes the state board to include use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature. Existing law authorizes the allocation of moneys appropriated from the Greenhouse Gas*

*Reduction Fund for the purpose of reducing greenhouse gas emissions through, among other things, investments in programs implemented by local and regional agencies and collaboratives, and by nonprofit organizations coordinating with local governments.*

*This bill would specify that these investments include the California Green Infrastructure Bank.*

*(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

*This bill would make legislative findings to that effect.*

~~Existing law establishes various programs throughout the state to promote energy efficiency, reduce greenhouse gases, and encourage private economic development.~~

~~This bill would state the intent of the Legislature to enact legislation that would establish the California Green Bank to coordinate, align, and enhance the state's efforts to provide energy finance programs for advanced energy technologies and projects throughout the state.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Part 11.5 (commencing with Section 15880) is  
2     added to Division 3 of Title 2 of the Government Code, to read:

3

4             PART 11.5. THE CALIFORNIA GREEN BANK ACT

5

6     15880. The Legislature finds and declares the purposes of the  
7     California Green Bank is to do all of the following:

8     (a) Evaluate and coordinate financing support and increase  
9     private investment in otherwise commercially viable clean energy  
10    projects, other than innovative energy technology projects, not  
11    currently able to obtain financing in the capital markets at a  
12    reasonable cost with a reasonable rate of return to a clean energy  
13    project developer.

14    (b) Evaluate and coordinate financing support and increase  
15    private investment in innovative energy technology projects not  
16    currently able to obtain financing in the capital markets to achieve

1 commercialization, drawing upon the state's unique combination  
2 of experts in technology, clean-tech investment, and low-carbon  
3 innovations to carefully evaluate and proactively support these  
4 investments.

5 (c) Reduce rates and decrease costs for utility ratepayers within  
6 the state, expand the accessibility and affordability of clean energy  
7 for end users, ensure the reliability and safety of the state's energy  
8 supply, increase the use of clean energy, promote energy efficiency,  
9 and advance the state's energy and infrastructure-related economy,  
10 including, but not limited to, credit enhancement tools that enable  
11 low- and moderate-income homeowners to obtain financing for  
12 clean energy projects.

13 (d) Foster increasingly efficient, low-cost private capital  
14 financing for clean energy projects through the creation of  
15 financial performance data, standardized contracts, underwriting  
16 standards, and measurement and verification protocols for clean  
17 energy projects.

18 (e) Serve as a provider of bond guarantees, loans, loan  
19 guarantees, the warehousing of loans, securitization, insurance,  
20 portfolio insurance, credit enhancements, and other forms of  
21 financing support and risk management for clean energy projects.

22 (f) Achieve the level of financing support for clean energy  
23 projects necessary to advance the state's policy objectives,  
24 including, but not limited to, the reduction of greenhouse gas  
25 emissions within the state.

26 15880.5. The following definitions shall apply to this part,  
27 unless the context requires otherwise:

28 (a) "Act" means the California Green Bank Act created under  
29 this part.

30 (b) "Bank" means the California Green Bank.

31 (c) "Board" means the Board of Directors of the California  
32 Green Bank.

33 (d) "Bonds" means bonds, including structured, senior, and  
34 subordinated bonds or other securities, loans, notes, including  
35 bond, revenue, tax, or grant anticipation notes, commercial paper,  
36 floating rate and variable maturity securities, and any other  
37 evidences of indebtedness or ownership, including, but not limited  
38 to, certificates of participation or beneficial interest, asset backed  
39 certificates, or lease-purchase or installment purchase agreements.

1     (e) “Clean agriculture project” means any project, technology,  
2     product, service, function, or measure, or an aggregation of  
3     projects, technologies, products, services, functions or measures,  
4     whose primary purpose is the development or deployment,  
5     including manufacturing, of a technology, product, or service that  
6     avoids or reduces emissions of greenhouse gases directly or  
7     indirectly caused by the production or processing of crops or  
8     livestock.

9     (f) “Clean energy infrastructure project” means the  
10    construction, alteration, or repair of any of type of infrastructure  
11    necessary for the deployment of technologies, products, or services  
12    that will avoid or reduce emissions of greenhouse gases including,  
13    but not limited to, electric transmission and distribution facilities  
14    interconnected to renewable energy projects or system efficiency  
15    projects, hydrogen transportation and distribution systems,  
16    including hydrogen vehicle fueling stations, or electric vehicle  
17    charging stations, or improvements to infrastructure used for the  
18    transportation of passengers, goods, or freight.

19    (g) “Clean energy project” means any project, technology,  
20    product, service, function, or measure, or an aggregation of  
21    projects, technologies, products, services, functions or measures  
22    that avoids or reduces emissions of greenhouse gases, including,  
23    but not limited to, energy efficiency projects, clean energy  
24    infrastructure projects, innovative energy technology projects,  
25    renewable energy projects; system efficiency projects, clean  
26    agriculture projects, low-carbon transportation projects, and  
27    demand response projects or an aggregation of any of these types  
28    of projects.

29    (h) “Demand response project” means any project, technology,  
30    product, service, function, or measure, or an aggregation of  
31    projects, technologies, products, services, functions, or measures  
32    that changes electric usage by end-use customers in the state from  
33    their normal consumption patterns in response to any of the  
34    following:

35       (1) Changes in the price of electricity over time.

36       (2) Incentive payments designed to induce lower electricity use  
37       at times of high market prices.

38       (3) System reliability.

39    (i) “Energy efficiency project” means any project, technology,  
40    product, service, function, or measure, or an aggregation of

1 *projects, technologies, products, services, functions, or measures,*  
2 *that results in the reduction of energy use required to achieve the*  
3 *same level of service or output prior to the application of the*  
4 *project, technology, product, service function, or measure, and*  
5 *reduces emissions of greenhouse gas relative to emissions that*  
6 *would have occurred prior to the application of the project,*  
7 *technology, product, service, function, or measure, including, but*  
8 *not limited to, projects, technologies, products, services, functions,*  
9 *or measures that reduce the amount of greenhouse gas emissions*  
10 *associated with water capture, conveyance, use, reuse, recycling,*  
11 *or treatment.*

12 (j) “Fund” means the California Green Bank Fund.

13 (k) “Innovative energy technology project” means any project  
14 whose primary purpose is either of the following:

15 (1) Development or deployment, including manufacturing, of a  
16 technology, infrastructure, practice, product, or service that avoids  
17 or reduces emissions of greenhouse gases and that employs new  
18 or significantly improved technologies or practices as compared  
19 to technologies or practices that are in general use in the  
20 commercial marketplace in the United States at the time the project  
21 is approved by the bank.

22 (2) Manufacturing of a commercially ready energy technology  
23 or product that avoids or reduces emissions of air pollutants or  
24 greenhouse gases, and that incorporates an innovative  
25 manufacturing process or processes not in general use in the  
26 commercial marketplace in the United States at the time the project  
27 is approved by the bank.

28 (l) “Low-carbon transportation project” means any project,  
29 technology, product, service, function, or measure, or an  
30 aggregation of projects, technologies, products, services, functions,  
31 or measures, that result in reductions in greenhouse gas emissions  
32 from the transportation of people, goods, or freight.

33 (m) “Renewable energy project” means the development,  
34 construction, deployment, alteration, or repair of any solar, wind,  
35 geothermal, appropriately sourced biomass, anaerobic digestion  
36 of organic waste streams, small hydropower projects, ocean or  
37 tidal, fuel cell using renewable fuels, or advanced biofuel or other  
38 renewable fuel energy generation facility.

39 (n) “System efficiency project” means the development,  
40 construction, deployment, alteration, or repair of any distributed

1 generation, energy storage, smart grid technologies, advanced  
2 battery, microgrid, fuel cell using renewable fuels, or combined  
3 heat and power systems.

4 15880.10. There is in state government the California Green  
5 Bank. The bank shall have two separate divisions, as follows:

6 (a) The clean energy division, which shall oversee all clean  
7 energy projects, other than innovative energy technology projects.

8 (b) The innovative energy technologies division, which shall  
9 oversee innovative energy technology projects.

10 15880.15. The bank shall be an independent entity in state  
11 government. Neither the bank nor any of its functions, powers, or  
12 duties shall be transferred to or consolidated with any other  
13 department or agency, of the state.

14 15880.20. The California Green Bank Fund is established  
15 within the State Treasury for the purpose of implementing this act.  
16 Moneys shall be deposited in the fund pursuant to Section  
17 15880.65. Notwithstanding Section 13340, all moneys in the fund  
18 are continuously appropriated without regard to fiscal year for  
19 the support of the bank and shall be available for expenditure by  
20 the bank for the purposes stated in the act.

21 15880.25. (a) The bank shall be governed by a board of  
22 directors, composed of 11 members as follows:

23 (1) The Governor shall appoint three members.

24 (2) The Senate Committee on Rules shall appoint one member.

25 (3) The Speaker of the Assembly shall appoint one member.

26 (4) The Treasurer shall appoint one member.

27 (5) The Department of Finance shall appoint one member.

28 (6) The Public Utilities Commission shall appoint one member.

29 (7) The Energy Commission shall appoint one member.

30 (8) The State Air Resources Board shall appoint one member.

31 (9) The Department of Water Resources shall appoint one  
32 member.

33 (b) The members of the board appointed by the Governor, the  
34 Senate Committee on Rules, and the Speaker of the Assembly shall  
35 have private sector financial experience.

36 (c) The initial terms of the members of the board shall be four  
37 years. For terms beginning after the first term of four years, the  
38 board shall, in its bylaws, create staggered terms of 2, 3, and 4  
39 years for members of the board.

1     (d) Any member of the board whose term has expired may  
2     continue to serve on the board until the earlier of either of the  
3     following:

4     (1) The date on which that member's successor is appointed.

5     (2) The end of the six-month period beginning on the date the  
6     member's term expired.

7     (e) Members of the board may be reappointed for additional  
8     terms as members of the board.

9     (f) Any vacancy on the board shall be filled in the same manner  
10    in which the original appointment was made.

11    (g) Any member of the board appointed to fill a vacancy  
12    occurring before the expiration of the term for which the member's  
13    predecessor was appointed shall be appointed only for the  
14    remainder of that term.

15    15880.30. Six of the members of the board shall constitute a  
16    quorum. The affirmative vote of a majority of a quorum shall be  
17    necessary for any action to be taken by the board.

18    15880.35. (a) The board shall adopt, and may amend, bylaws  
19    as are necessary for the proper management and functioning of  
20    the bank.

21    (b) The board shall adopt an official seal.

22    (c) The board may establish committees and subcommittees as  
23    it deems necessary to carry out the activities and purposes of the  
24    bank.

25    (d) At the request of any two members of the board, the  
26    chairman shall place an item pertaining to the policies or  
27    procedures of the bank on the agenda for discussion by the board.  
28    Not later than 30 days after the date that a request is made, the  
29    chairman shall hold a meeting of the board at which the item shall  
30    be discussed.

31    (e) The board may sue or be sued in its own name or delegate  
32    the authority to the chief executive officer.

33    15880.40. (a) (1) The board shall select a chief executive  
34    officer. The chief executive officer shall manage and conduct the  
35    business and affairs of the bank at the direction of the board.

36    (2) The chief executive officer shall have significant expertise  
37    in management and administration of a financial institution, or  
38    significant expertise in the financing and development of energy  
39    or infrastructure projects.



1     (3) *The chief executive officer shall not have any financial*  
2 *interest in either of the following:*

3     (A) *A clean energy project being considered by the board, unless*  
4 *that interest is placed in a blind trust.*

5     (B) *An investment institution, its affiliates, or any other entity*  
6 *seeking or likely to seek financial assistance for any clean energy*  
7 *project from the bank, unless the interest is placed into a blind*  
8 *trust for the tenure of the service of the chief executive officer, plus*  
9 *two additional years.*

10    (b) *The chief executive officer may appoint an executive vice*  
11 *president who shall serve as chief executive officer during the*  
12 *absence or disability of, or in the event of a vacancy in the office,*  
13 *of chief executive officer. The executive vice president shall perform*  
14 *functions as the chief executive officer prescribes.*

15    (c) *The chief executive officer may appoint one divisional vice*  
16 *president for each of the bank's two divisions who shall direct,*  
17 *control, and oversee the function of his or her respective division*  
18 *and perform functions as the chief executive officer prescribes.*

19    (d) *Except as the board may otherwise determine, the chief*  
20 *executive officer may employ staff as he or she determines is*  
21 *necessary to carry out the activities and purposes of the bank.*

22    15880.45. (a) *The bank may, consistent with Article VII of the*  
23 *California Constitution, contract with banks, credit agencies, and*  
24 *attorneys at customary commercial rates to provide services to*  
25 *carry out the activities and mission of the bank, including, but not*  
26 *limited to, administrative and operative functions.*

27    (b) *Notwithstanding any other law, the bank shall compensate*  
28 *its employees at prevailing rates for compensation for similar*  
29 *positions in private industry.*

30    (c) *The bank may purchase insurance for itself or for its*  
31 *fiduciaries to cover liability or losses occurring by reason of the*  
32 *act or omission of the bank or of a fiduciary, if the insurance*  
33 *permits recourse by the insurer against the fiduciary in the case*  
34 *of a breach of a fiduciary obligation by the fiduciary.*

35    15880.50. (a) *A director, officer, attorney, agent, or employee*  
36 *of the bank shall not, in any manner directly or indirectly,*  
37 *participate in the deliberation upon, or the determination of, any*  
38 *question affecting the individual's personal interests, or the*  
39 *interests of any corporation, partnership, or association in which*  
40 *the individual is directly or indirectly personally interested.*

1     **(b)** *The members of the board shall be subject to the Political*  
2 *Reform Act of 1974 (Title 9 (commencing with Section 81000))*  
3 *and all other applicable laws relating to the prohibitions and*  
4 *limitations of financial interests of public officials and employees.*

5     15880.55. **(a)** *Members of the board shall not receive a salary,*  
6 *but be paid a per diem in the amount of \$\_\_\_\_\_ for each day away*  
7 *from home working on bank business.*

8     **(b)** *The chief executive officer shall be compensated at an*  
9 *amount set by the board that is commensurate with a similar*  
10 *private sector position.*

11     **(c)** *The executive vice president and divisional vice presidents*  
12 *shall be compensated at an amount set by the chief executive officer*  
13 *and shall be commensurate with similar private sector financial*  
14 *positions.*

15     15880.60. **(a)** *The bank is authorized to issue bonds, the*  
16 *proceeds from which shall be deposited into the fund.*

17     **(b)** *Bonds issued by the bank shall be in the forms and*  
18 *denominations as determined by the bank, have a maturity of no*  
19 *more than 50 years, and bear an interest rate set by the bank.*

20     **(c)** *The repayment of bonds issued by the bank shall be paid by*  
21 *the bank, only to the extent funds are available to the bank and*  
22 *shall not be backed by the full faith and credit of the state. Each*  
23 *bond shall include on its face a notation to this effect.*

24     **(d)** *The aggregate face amount of the bonds issued under this*  
25 *section shall be in an amount to be determined by the bank.*

26     **(e)** *The bank shall issue bonds through a competitive bidding*  
27 *process that encourages aggressive bidding and in a manner that*  
28 *ensure there are at least four different unaffiliated purchasers.*

29     **(f)** *Any and all bonds issued by the bank, their transfer and the*  
30 *income therefrom, shall at all times be free from taxation of every*  
31 *kind by the state and by all political subdivisions of the state.*

32     15880.65. **(a)** *The bank may receive for deposit into the fund*  
33 *any local, state, or federal moneys to provide financing support*  
34 *for clean energy projects pursuant to the act.*

35     **(b)** *The bank may receive for deposit into the fund charitable*  
36 *gifts, grants, contributions, loans, and other financial conveyance*  
37 *from private individuals, corporations, and philanthropic*  
38 *foundations for providing financing support for clean energy*  
39 *projects generally, or for the express purpose of financing a*  
40 *specific clean energy project or category of clean energy projects.*

1 *Moneys in the fund other than from a gift, grant, contribution,*  
2 *loan, or other financial conveyance made to support a clean energy*  
3 *projects shall not be dedicated for financing support for any*  
4 *specific project or category projects.*

5 *15880.70 The bank shall assess reasonable fees on its activities,*  
6 *including loans, loan guarantees, insurance, portfolio insurance,*  
7 *and other forms of financing support or risk management it*  
8 *provides to cover its reasonable costs and expenses, as determined*  
9 *by the board. The bank shall deposit fees it collects into the fund.*

10 *15880.75. The bank may own or take interest in property to*  
11 *the extent necessary to carry out its activities.*

12 *15880.80. (a) The bank shall establish a program to provide,*  
13 *on a competitive basis, loans, loan guarantees, securitization,*  
14 *insurance, portfolio insurance, and other forms of financing*  
15 *support or risk management, as the bank determines appropriate,*  
16 *for any clean energy project that meets the qualifications set forth*  
17 *in this act and the guidelines established by the bank.*

18 *(b) The board may determine lending guidelines, including, but*  
19 *not limited to, the setting of maturity and interest rates for loans.*

20 *(c) An applicant may be any public or private entity, whether*  
21 *organized for profit or nonprofit, that is engaged in business or*  
22 *operations within the state.*

23 *(d) The bank shall establish guidelines and criteria for selecting*  
24 *clean energy projects to receive financing support. Clean energy*  
25 *projects shall comply with the criteria, priorities, and guidelines*  
26 *adopted by the bank to the maximum extent feasible. Those criteria*  
27 *shall include, but not be limited to, a consideration of the*  
28 *following:*

29 *(1) Maximizing economic, environmental, and public health*  
30 *benefits to the state.*

31 *(2) Fostering job creation by promoting the reduction of*  
32 *greenhouse gas emissions by California workers and businesses.*

33 *(3) Complementing efforts to improve air quality.*

34 *(4) Directing investment toward the most disadvantaged*  
35 *communities and households in the state.*

36 *(5) Providing opportunities for businesses, public agencies,*  
37 *nonprofits, and other community institutions to participate in and*  
38 *benefit from statewide efforts to reduce greenhouse gas emissions.*

39 *(6) Lessening the impacts and effects of climate change on the*  
40 *state's communities, economy, and environment.*

1     (7) *Funding to reduce greenhouse gas emissions through energy*  
2 *efficiency, clean and renewable energy generation, distributed*  
3 *renewable energy generation, energy transmission and storage,*  
4 *and other related actions, including, but not limited to, energy*  
5 *efficiency in public universities, state and local public buildings,*  
6 *and industrial and manufacturing facilities.*

7     (8) *Funding to reduce greenhouse gas emissions through the*  
8 *development of state-of-the-art systems to move goods and freight,*  
9 *advanced technology vehicles and vehicle infrastructure, advanced*  
10 *biofuels, and low-carbon and efficient public transportation.*

11     (9) *Funding to reduce greenhouse gas emissions associated*  
12 *with water use and supply, land, and natural resource conservation*  
13 *and management, forestry, and sustainable agriculture.*

14     (10) *Funding to reduce greenhouse gas emissions through*  
15 *strategic planning and development of sustainable infrastructure*  
16 *projects, including, but not limited to, transportation and housing.*

17     (11) *Funding to reduce greenhouse gas emissions through*  
18 *increased diversion of municipal solid waste from disposal through*  
19 *waste reduction, diversion, and reuse.*

20     (12) *Funding to reduce greenhouse gas emissions through*  
21 *investments in programs implemented by local and regional*  
22 *agencies, local and regional collaboratives, and nonprofit*  
23 *organizations coordinating with local governments.*

24     (13) *Funding in research, development, and deployment of*  
25 *innovative technologies, measures, and practices related to*  
26 *programs and projects funded pursuant to this part.*

27     (14) *Creating robust private markets for low-carbon*  
28 *technologies.*

29     (e) *The bank shall provide financing support, including, but not*  
30 *limited to, loans, loan guarantees, securitization, insurance,*  
31 *portfolio insurance, bond guarantees, and other forms of financing*  
32 *support or risk management, to a clean energy project only if all*  
33 *of the following criteria are met:*

34         (1) *The clean energy project is located within the state.*

35         (2) *Except in the case of an innovative energy technology*  
36 *project, the clean energy project can support a commercial rate*  
37 *of debt, adjusted downward to account for the bank's lower costs.*

38         (3) *The requested financing support is secured as the chief*  
39 *executive officer of the bank determines appropriate for the sector*  
40 *and the project.*

1     (4) *The clean energy project satisfies all statutory requirements*  
2 *or conditions related to the receipt of revenues from the*  
3 *Greenhouse Gas Reduction Fund, consistent with paragraph (6)*  
4 *of subdivision (c) of Section 39712 of the Health and Safety Code.*

5     (5) *The clean energy project is consistent with any criteria,*  
6 *priorities, and guidelines established by the bank.*

7     (6) *The board determines one or more of the following:*

8     (A) *The bank's participation in the financing support for a clean*  
9 *energy project would enable otherwise creditworthy or*  
10 *commercially viable entities to deploy that clean energy projects*  
11 *at a reasonable cost with a reasonable rate of return to the clean*  
12 *energy project developer of and on its invested capital.*

13     (B) *The financing support will facilitate deployment of a clean*  
14 *energy project at an accelerated rate.*

15     (C) *The financing support will stimulate, aid, or otherwise*  
16 *support manufacturing of finished products or component parts*  
17 *used in an innovative energy technology project located within*  
18 *the state.*

19     (D) *The financing support is necessary to create liquid markets*  
20 *for energy securities.*

21     (E) *The financing support otherwise addresses barriers that*  
22 *have prevented adequate commercial financing of clean energy*  
23 *projects.*

24     (f) *In addition to any other methods the bank may use to identify*  
25 *clean energy projects that satisfy the requirements for financing*  
26 *support, the bank shall utilize existing clean energy development*  
27 *networks to identify clean energy projects that satisfy the*  
28 *requirements for financing support, including the creation of*  
29 *advisory committees comprised of public and private stakeholders*  
30 *to the extent deemed appropriate by the board. The bank will also*  
31 *endeavor to coordinate with existing state clean energy research,*  
32 *development, and deployment programs.*

33     (g) *Any recipient of funds under this part that utilizes the funds*  
34 *for construction purposes shall certify that the contractors are*  
35 *properly licensed under all applicable state laws.*

36     (h) *The bank shall charge any fees for bond guarantees as the*  
37 *board determines appropriate.*

38     (i) *The bank may facilitate financing transactions in tax equity*  
39 *markets and long-term purchasing of clean energy by governmental*  
40 *and nongovernmental nonprofit entities, to the degree and extent*

1 *that the board determines the financing activity is appropriate and*  
2 *consistent with carrying out the terms of this part.*

3 *(j) The clean energy division shall only conduct financing*  
4 *activities for those clean energy projects that meet the criteria and*  
5 *guidelines established by the board for clean energy projects.*

6 *(k) A sponsor or developer of, or a financing party for, a clean*  
7 *energy project that seeks financing support under this part shall*  
8 *submit an application to the board in a form and manner required*  
9 *by the board.*

10 *15880.85. (a) The bank shall allocate between 15 and 30*  
11 *percent of its capital to provide financing support for innovative*  
12 *energy technology projects.*

13 *(b) The bank may provide convertible debt or warrants to*  
14 *support innovative energy technology projects, and as a result,*  
15 *may take a nonvoting equity or membership interest in innovative*  
16 *energy technology projects or developers thereof.*

17 *(c) If the sponsor or developer defaults on its obligations that*  
18 *are a condition of the financing support it receives with regard to*  
19 *an innovative energy technology project, the bank may,*  
20 *notwithstanding any other law, do either of the following:*

21 *(1) Complete, maintain, operate, lease, or otherwise dispose of*  
22 *any property acquired pursuant to a guarantee or related*  
23 *agreements, including, but not limited to, all intellectual property*  
24 *and technology necessary for any person designated by the bank*  
25 *to complete and operate the innovative energy technology project.*

26 *(2) Permit the sponsor or developer, pursuant to an agreement*  
27 *with the bank, to continue to pursue the purposes of the innovative*  
28 *energy technology project, if the bank determines this to be in the*  
29 *public interest.*

30 *15880.90. The board may fix and collect insurance premiums*  
31 *or loan loss reserve contributions from applicants that are*  
32 *adequate to cover the financial risks associated with the bank's*  
33 *financing support programs.*

34 *15880.95. (a) The chief executive officer shall do all of the*  
35 *following:*

36 *(1) Require any entity receiving financing support pursuant to*  
37 *this part to report quarterly, in a format specified by the chief*  
38 *executive officer, on the entity's use of the support and its progress*  
39 *fulfilling the objectives for which that support was granted, and*

1 *the chief executive officer shall make these reports available to*  
2 *the public.*

3 *(2) Pursue a diversified portfolio of clean energy projects for*  
4 *which the bank provides financing support.*

5 *(3) Establish appropriate mechanisms to ensure appropriate*  
6 *use and compliance with all terms of any financing support made*  
7 *available pursuant to this part.*

8 *(4) Create and maintain a fully searchable database accessible*  
9 *on the bank's Internet Web site at no cost to the public that*  
10 *contains all of the following:*

11 *(A) A list of each entity that has applied for a loan, loan*  
12 *guarantee, insurance, portfolio insurance, or other forms of*  
13 *financing support or risk management under this section.*

14 *(B) A description of each application.*

15 *(C) The status of each application.*

16 *(D) The name of each entity receiving funds made available*  
17 *pursuant to this section.*

18 *(E) The purpose for which that entity is receiving those funds.*

19 *(F) The quarterly report submitted by the entity pursuant to this*  
20 *part.*

21 *(G) Any other information sufficient to allow the public to*  
22 *understand and monitor loans, loan guarantees, insurance,*  
23 *portfolio insurance, and other forms of financing support or risk*  
24 *management provided under this part.*

25 *(5) Assist in and ensure the development of underwriting*  
26 *standards for the financing of clean energy projects consistent*  
27 *with good industry practices for public and private financial*  
28 *institutions.*

29 *(6) Establish a risk committee that develops and publishes*  
30 *operational performance metrics including operations, risk*  
31 *management, financial and market metrics, and energy and*  
32 *environmental metrics.*

33 *(7) Receive public comment in writing on the activities of the*  
34 *bank.*

35 *(b) The chief executive officer may do any of the following:*

36 *(1) Establish additional reporting and information requirements*  
37 *for any recipient of financing support made available pursuant to*  
38 *this part.*

39 *(2) In accordance with procedures set forth in bylaws*  
40 *established by the board, withdraw financing support made*

1 available pursuant to this part to entities that demonstrate an  
2 insufficient level of performance, or wasteful or fraudulent  
3 spending, as defined in advance of the granting of any financing  
4 support, and award these funds competitively to new or existing  
5 applicants in accordance with this section.

6 15880.100. To the extent necessary and appropriate, the chief  
7 executive officer may redact any information regarding applicants  
8 and borrowers to protect confidential business information.

9 15880.105. The bank shall, not later than February 1 of each  
10 year, submit to the Governor and the Joint Legislative Budget  
11 Committee, pursuant to Section 9795, a report of its activities  
12 pursuant to this act for the preceding fiscal year. The report shall  
13 include all of the following:

14 (a) A listing of applications accepted.

15 (b) A specification of bonds sold and interest rates thereon.

16 (c) The amount of other public and private funds leveraged by  
17 the assistance provided.

18 (d) A report of revenues and expenditures for the preceding  
19 fiscal year, including all of the bank's costs. The information  
20 provided pursuant to this subdivision shall include, but need not  
21 be limited to, both of the following:

22 (1) The amount and source of total bank revenues. Revenues  
23 shall be shown by main categories of revenues, including interest  
24 earnings, fees collected, and bond proceeds, for each bank  
25 program.

26 (2) The amount and type of total bank expenditures.  
27 Expenditures shall be shown by major categories of expenditures,  
28 including loans provided, debt service payments, and program  
29 support costs, for each bank program.

30 (e) Projection of the bank's needs and requirements for the  
31 coming year.

32 (f) Recommendations for changes in state law necessary to meet  
33 the objectives of this part.

34 15880.110. The bank shall be audited annually. The audit shall  
35 be conducted using generally accepted accounting standards by  
36 an independent certified public accountant.

37 15880.115. The board shall commission independent,  
38 comprehensive biennial evaluations of the performance of the  
39 bank. The evaluations shall assess the effectiveness and



1 *cost-effectiveness of all of the bank's activities in meeting the*  
2 *purpose of the bank as set forth in this part.*

3 *15880.120. This part shall remain in effect only until January*  
4 *1, 2036, and as of that date is repealed, unless a later enacted*  
5 *statute, that is enacted before January 1, 2036, deletes or extends*  
6 *that date.*

7 *SEC. 2. Section 39712 of the Health and Safety Code is*  
8 *amended to read:*

9 39712. (a) (1) It is the intent of the Legislature that moneys  
10 shall be appropriated from the fund only in a manner consistent  
11 with the requirements of this chapter and Article 9.7 (commencing  
12 with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title  
13 2 of the Government Code.

14 (2) The state shall not approve allocations for a measure or  
15 program using moneys appropriated from the fund except after  
16 determining, based on the available evidence, that the use of those  
17 moneys furthers the regulatory purposes of Division 25.5  
18 (commencing with Section 38500) and is consistent with law. If  
19 any expenditure of moneys from the fund for any measure or  
20 project is determined by a court to be inconsistent with law, the  
21 allocations for the remaining measures or projects shall be  
22 severable and shall not be affected.

23 (b) Moneys shall be used to facilitate the achievement of  
24 reductions of greenhouse gas emissions in this state consistent  
25 with Division 25.5 (commencing with Section 38500) and, where  
26 applicable and to the extent feasible:

27 (1) Maximize economic, environmental, and public health  
28 benefits to the state.

29 (2) Foster job creation by promoting in-state greenhouse gas  
30 emissions reduction projects carried out by California workers and  
31 businesses.

32 (3) Complement efforts to improve air quality.

33 (4) Direct investment toward the most disadvantaged  
34 communities and households in the state.

35 (5) Provide opportunities for businesses, public agencies,  
36 nonprofits, and other community institutions to participate in and  
37 benefit from statewide efforts to reduce greenhouse gas emissions.

38 (6) Lessen the impacts and effects of climate change on the  
39 state's communities, economy, and environment.

(c) Moneys appropriated from the fund may be allocated, consistent with subdivision (a), for the purpose of reducing greenhouse gas emissions in this state through investments that may include, but are not limited to, any of the following:

(1) Funding to reduce greenhouse gas emissions through energy efficiency, clean and renewable energy generation, distributed renewable energy generation, transmission and storage, and other related actions, including, but not limited to, at public universities, state and local public buildings, and industrial and manufacturing facilities.

(2) Funding to reduce greenhouse gas emissions through the development of state-of-the-art systems to move goods and freight, advanced technology vehicles and vehicle infrastructure, advanced biofuels, and low-carbon and efficient public transportation.

(3) Funding to reduce greenhouse gas emissions associated with water use and supply, land and natural resource conservation and management, forestry, and sustainable agriculture.

(4) Funding to reduce greenhouse gas emissions through strategic planning and development of sustainable infrastructure projects, including, but not limited to, transportation and housing.

(5) Funding to reduce greenhouse gas emissions through increased in-state diversion of municipal solid waste from disposal through waste reduction, diversion, and reuse.

(6) Funding to reduce greenhouse gas emissions through investments in programs implemented by local and regional agencies, local and regional collaboratives, ~~and nonprofit organizations coordinating with local governments.~~ *and, until January 1, 2036, the California Green Bank (Part 11.5 (commencing with Section 15880) to Division 3 of Title 2 of the Government Code).*

(7) Funding research, development, and deployment of innovative technologies, measures, and practices related to programs and projects funded pursuant to this chapter.

*SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 15880.100 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest*

1 *protected by this limitation and the need for protecting that*  
2 *interest:*

3 *Protecting confidential business information is necessary to*  
4 *protect the legitimate, private interests of California businesses.*

5 ~~SECTION 1. (a) It is the intent of the Legislature to enact~~  
6 ~~legislation that would establish the California Green Bank to~~  
7 ~~coordinate, align, and enhance the state's efforts to provide energy~~  
8 ~~finance programs for advanced energy technologies and projects~~  
9 ~~throughout the state by accomplishing all of the following:~~

10 ~~(1) Reducing rates and decreasing costs for California ratepayers~~  
11 ~~while expanding the accessibility and affordability of clean energy~~  
12 ~~for all Californians.~~

13 ~~(2) Increasing private investment in clean energy projects that~~  
14 ~~currently are not able to obtain financing in traditional capital~~  
15 ~~markets at a reasonable cost by providing a variety of financial~~  
16 ~~tools to stimulate private investment.~~

17 ~~(3) Achieving California's environmental and economic~~  
18 ~~objectives by reducing greenhouse gas emissions and increasing~~  
19 ~~investments in disadvantaged communities.~~

20 ~~(4) Facilitating efficient, low-cost private financing markets for~~  
21 ~~clean energy projects.~~

22 ~~(5) Supporting California's unique position as a worldwide~~  
23 ~~leader in clean energy innovation by helping to bring innovative~~  
24 ~~technologies to market.~~

25 ~~(b) It is the intent of the Legislature to enact legislation that~~  
26 ~~would establish a board of directors for the California Green Bank~~  
27 ~~to be composed of appointees by the Governor, the Legislature,~~  
28 ~~the Treasurer, the Department of Finance, the California Public~~  
29 ~~Utilities Commission, the California Energy Commission, and the~~  
30 ~~California Air Resources Board, who possess expertise in financing~~  
31 ~~and green investments. The legislation would further provide for~~  
32 ~~the creation of governing documents for the California Green Bank~~  
33 ~~and the position of an executive director to manage and conduct~~  
34 ~~the business of the California Green Bank, subject to the direction~~  
35 ~~of its board.~~